



**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)	
)	
SCOTT APPELHANS,)	
)	
Complainant,)	
)	Charge No.: 2000CF0494
and)	EEOC No.: 21B993021
)	ALS No.: 11296
THE CITY OF CHICAGO,)	
DEPARTMENT OF AVIATION,)	
)	
Respondent.)	

RECOMMENDED ORDER AND DECISION

On June 15, 2000, the Illinois Department of Human Rights filed a complaint on behalf of Complainant, Scott Appelhans. That complaint alleged that Respondent, City of Chicago, Department of Aviation, discriminated against Complainant on the basis of his race when it suspended him without pay.

This matter now comes on to be heard on Respondent's Second Motion to Dismiss for Want of Prosecution. Although Complainant was served with the motion, he neither filed a written response to the motion nor appeared at the scheduled hearing on the motion. The time for filing any response has passed. The matter is ready for decision.

FINDINGS OF FACT

The following facts are based upon the record file in this matter.

1. On August 15, 2001, an order was entered which required

Complainant to provide Respondent with his draft of the joint prehearing memorandum on or before September 14, 2001. That order also set a final status date of October 18, 2001.

2. Complainant failed to provide Respondent with a proposed draft of the joint prehearing memorandum. He also failed to appear at the scheduled October 18 status hearing. As a result of those failures, Respondent was given leave to file a motion to dismiss.

3. On December 4, 2001, counsel for both parties appeared for arguments on Respondent's motion to dismiss. The motion was continued on the condition Complainant provide his draft of the joint prehearing memorandum to Respondent on or before January 15, 2002. In the order entered on December 4, a final status date was set for February 5, 2002.

4. Complainant failed to provide Respondent with a draft of the prehearing memorandum. In addition, he failed to appear at the February 5 final status hearing.

5. Complainant has failed to file any written response to Respondent's motion to dismiss and has failed to offer any explanation for his failure to comply with the December 4, 2001 order.

CONCLUSIONS OF LAW

1. Complainant's failure to prosecute this matter has unreasonably delayed these proceedings.

2. This matter should be dismissed with prejudice because

of Complainant's inaction.

DISCUSSION

This matter has been pending since June of 2000. For much of that time, Complainant took steps to prosecute his claim. However, since at least the summer of 2001, he has failed to take the steps necessary to move the case toward a conclusion.

On August 15, 2001, an order was entered which required Complainant to provide Respondent with his draft of the joint prehearing memorandum on or before September 14, 2001. That order also set a final status date of October 18, 2001.

Complainant failed to provide Respondent with a proposed draft of the joint prehearing memorandum and failed to appear at the scheduled October 18 status hearing. As a result of those failures, Respondent was given leave to file a motion to dismiss.

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Complainant failed to provide Respondent with a draft of the prehearing memorandum. In addition, he failed to failed to appear at the February 5 final status hearing. He has failed to file any written response to Respondent's motion to dismiss and has failed to offer any explanation for his failure to comply

with the December 4, 2001 order.

In short, in defiance of repeated orders, Complainant has failed to provide a draft of the prehearing memorandum and has failed to attend two final status hearings. Under section 8A-102(I)(6) of the Human Rights Act, 775 ILCS 5/1-101 *et seq.*, an administrative law judge may recommend dismissal of a case if a complainant fails to prosecute his case or appear at a status hearing. Complainant's behavior meets that standard. His continued inaction, even in the face of a motion to dismiss, strongly suggests that he has abandoned his claim. As a result, it is appropriate to dismiss his claim with prejudice. See **Leonard and Solid Matter, Inc.**, ___ Ill. HRC Rep. ___, (1989CN3091, August 25, 1992).

RECOMMENDATION

Based upon the foregoing, it appear that Complainant has abandoned his claim. Accordingly, it is recommended that the complaint in this matter be dismissed in its entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL J. EVANS
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: March 13, 2002